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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) No. 3-06-70636 EDL
Plaintiff,) [PROPOSED] ORDER AND STIPULATION
v.) (1) RECALLING AND REISSUING
MARVIN EARL WEBB,) SUMMONS, AND (2) EXCLUDING TIME
Defendant.) FROM FEBRUARY 2, 2007 TO APRIL 10,
) 2007 FROM THE SPEEDY TRIAL ACT
) CALCULATION (18 U.S.C. § 3161(h)(8)(A))

On October 3, 2006, based on a criminal complaint presented by Bureau of Alcohol, Tobacco, Firearms, and Explosives Special Agent Tommy Ho, the Hon. Elizabeth D. Laporte issued a summons for the Defendant to appear on November 7, 2006 at 9:30 a.m. The Defendant was served with the summons and complaint at his home in Tennessee on or about October 6, 2006. On November 7, 2006, after the parties filed a Joint Stipulation seeking to recall and reissue the summon and exclude time, the Honorable Judge Edward Chen ordered that the summons be recalled and reissued for February 2, 2007 and that the time from October 6, 2006 through February 2, 2007 shall be excluded from the Speedy Trial Act calculations.

Counsel for the Government and Defendant are currently discussing a pre-indictment resolution of this case and a Rule 20 transfer of this matter to the Middle District of Tennessee to permit the Defendant to resolve the matter in that District. The Defendant has health problems that significantly limit his ability to travel outside of the Tennessee area. Due to recent health

1 complications, it will be extremely difficult for the Defendant to appear in San Francisco on
2 February 2, 2007. Further, counsel for the Defendant does not believe it is in his client's best
3 interests for the government to indict the case within 30 days of the service of the summons, as
4 required under 18 U.S.C. § 3161(b).

5 Accordingly, the parties have agreed as follows:

6 1. The summons for February 2, 2007 should be recalled, and a new summons should be
7 reissued for April 10, 2007.

8 2. The defendant agrees to an exclusion of time under the Speedy Trial Act. Failure to
9 grant the requested continuance would unreasonably deny both government and defense counsel
10 reasonable time necessary for effective preparation, taking into account the exercise of due
11 diligence, the need for both sides to investigate the facts of the case, and the on-going attempts to
12 reach a pre-indictment disposition.

13 3. Given these circumstances, parties agree and the Court should find that the ends of
14 justice served by excluding the period from February 2, 2007 to April 10, 2007 outweigh the best
15 interest of the public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

16 IT IS SO STIPULATED.

17 DATED: February 1, 2007

18 /s/
19 DENISE MARIE BARTON
Assistant United States Attorney

20 DATED: February 1, 2007

21 /s/
22 HUGH MUNDY
Attorney for MARVIN EARL WEBB

23 **IT IS SO ORDERED.**

24 The summons for the Defendant's appearance on February 2, 2007 is hereby
RECALLED. A new summons requiring the Defendant to appear on April 10, 2007 shall issue.
Pursuant to the parties' stipulation and for the reasons set forth above, the time from February 2,
2007 to April 10, 2007 shall be excluded from the Speedy Trial Act calculations.

25 DATED: February 1, 2007

26 STIPULATION AND ORDER
27 3-06-70636 EDL

28 THE HON. MAGistrate JUDGE
ELENA JAMES
United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the office of the United States Attorney, Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned certifies that she caused copies of

[PROPOSED] ORDER AND STIPULATION (1) RECALLING AND REISSUING SUMMONS, AND (2) EXCLUDING TIME FROM FEBRUARY 2, 2007 TO APRIL 10, 2007 FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C. § 3161(h)(8)(A))

in the case of **UNITED STATES V. MARVIN EARL WEBB, CR 06-70636 EDL** to be served on the parties in this action, by placing a true copy thereof in a sealed envelope, addressed as follows which is the last known address:

Hugh Mundy
Federal Public Defender
Middle District of Tennessee
810 Broadway, Suite 200
Nashville, TN 37203-3805
Tel: 615-736-5047
Fax: 615-736-5265
Email: Hugh.Mundy@fd.org

(By Personal Service), I caused such envelope to be delivered by hand to the person or offices of each addressee(s) above.

(By Facsimile), I caused each such document to be sent by Facsimile to the person or offices of each addressee(s) above.

(By Mail), I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, California.

(By Fed Ex), I caused each such envelope to be delivered by FED EX to the address listed above.

(Via Email), I caused such document to be sent by e-mail to the person or offices of each addressee(s) above.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 1, 2007